



*Pt. Iroquois Lighthouse on Michigan's Lake Superior*



*Workers'*

*Compensation Agency*

*2009*

*Annual Report*

**Jennifer M. Granholm, Governor**  
*State of Michigan*

Stanley “Skip” Pruss, Director  
*Department of Energy, Labor & Economic Growth*

Jack A. Nolish, Director  
*Workers’ Compensation Agency*

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## *Overview*

2009 marked the 97<sup>th</sup> anniversary of workers' compensation law in Michigan. Prior to the initial enactment in 1912, a worker who was injured in the course of his or her employment could sue his or her employer in a civil or "tort" action. This was the same remedy available to any person injured under other circumstances. The tort remedy, however, has certain problems. It requires the worker prove that the injury occurred because the employer was negligent. The employer could then assert one or more of three important defenses: (1) that the worker was also negligent, (2) that the worker knew of the dangers involved and "assumed the risk," or (3) that the injury occurred because of the negligence of a "fellow employee." Under this system it was very difficult for workers to recover against their employers. If they did win, however, they could receive damages similar to other civil actions.

In 1912 Michigan, along with most other states, adopted a Workmen's Compensation Act. The new remedy was essentially a "no-fault" system under which a worker no longer had to prove negligence on the part of the employer, and the employer's three indicated defenses were eliminated. The intent of the new law was to require an employer to compensate a worker for any injury suffered on the job, regardless of the existence of any fault or whose it might be.

Workers' compensation law became Michigan's first "tort reform" legislation. In exchange for the simplified burden of proof and elimination of the common law tort defenses indicated above, injured workers are now entitled only to (1) certain wage loss benefits, (2) medical treatment subject to cost containment rules, and (3) limited vocational rehabilitation services. Recovery under workers' compensation is limited to these three areas, no matter how serious the injury. There is no pain and suffering compensation. There are no jury trials. The cases are adjudicated before an appointed Board of Magistrates and the first level of appeal is to another appointed body, the Workers' Compensation Appellate Commission. Appeals to the Court of Appeals and Supreme Court are only by leave granted. Employers are protected from most other injury claims by employees since the benefits under the Workers' Disability Compensation Act are deemed to be the employee's "exclusive remedy."

Nearly all employers in Michigan are covered by workers' compensation. This includes both public and private employers. In fact, when talking about workers' compensation, it is easier to discuss the exceptions. There are a few classes of workers who are covered by federal laws and are not covered by the Workers' Disability Compensation Act of Michigan. Employees of the federal government (such as postal workers, employees at a veteran's administration hospital, or members of the armed forces) are covered by federal laws. People who work on interstate railroads are covered by the Federal Employers Liability Act. Seamen

on navigable waters are covered by the Merchant Marine Act of 1920, and people loading and unloading vessels are covered by the Longshoremen's and Harbor Workers' Compensation Act. Virtually all other workers and employers are subject to Michigan's law.

Certain very small employers are exempt. If a private employer has three or more employees at any one time, or employs one or more workers for 35 or more hours per week for 13 or more weeks, the employer is subject to the Workers' Disability Compensation Act (Section 115).

## 2009 Highlights

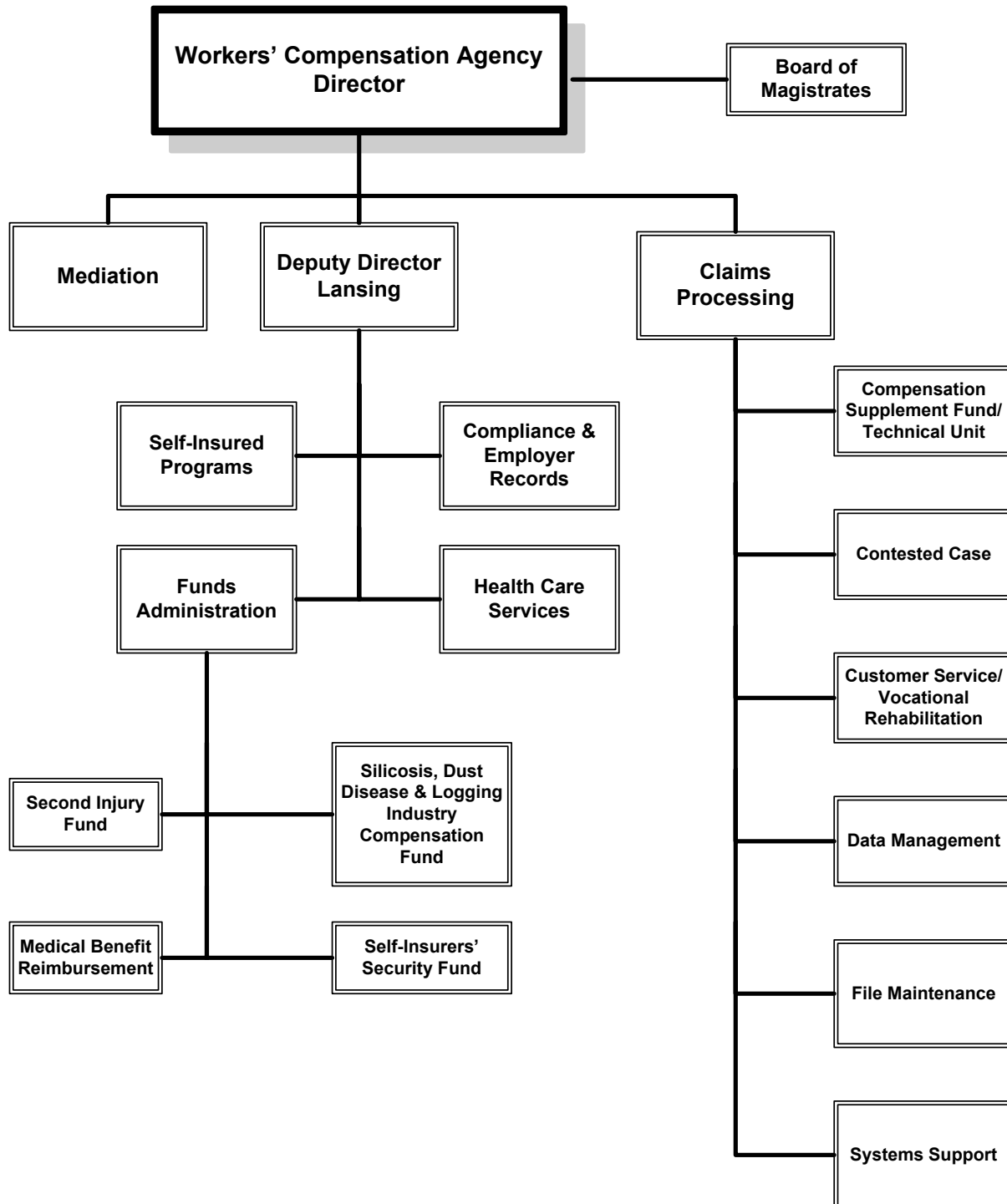
- ◆ Agency Director Jack Nolish forged a collaboration between the Agency, the Institute for Continuing Legal Education (ICLE), and the Workers' Compensation Section of the State Bar of Michigan to produce an updated edition of the popular and much used *Workers' Disability Compensation Act and Administrative Rules*.
- ◆ Nine additional insurance companies began sending the WCA proof of insurance coverage information electronically, bringing the total number of companies in production to sixteen.
- ◆ The Health Care Services Rules were updated and effective July 7, 2009. The updates adjusted the conversion factor to be budget neutral, separated the L-codes from the Rules and appropriately placed them with the Fee section. The Rules also clarified the primary code to have the highest relative value and the 3% late fee based on the allowable amount, not the billed amount.
- ◆ Health Care Services has put in place an internet automated reporting system for the Annual Medical Payment Report, so the insurance carriers, self-insureds and insured groups can go online and submit statistical data. This process decreases manpower hours used for processing and improves on the efficiency of the unit.
- ◆ The Funds Administration has worked in conjunction with the Compliance and Employer Records Section to collect fines from employers that have allowed their workers' compensation insurance coverage to lapse. Over \$350,000 was collected and paid into the workers' compensation administrative fund.
- ◆ The Funds Administration relocated to the State Secondary Complex in November 2009. This location centralizes the division within the same building as the Agency, allowing for greater efficiency and functionality.
- ◆ Governor Granholm appointed Michael Mason and David Kurtz to serve as magistrates. Mason was assigned to the Detroit hearings office. Kurtz was initially assigned to the Mt. Clemens office, but was transferred to the Detroit office when the Mt. Clemens office was closed at the end of June.
- ◆ In order to achieve significant cost savings and efficiencies, the Agency closed the Mt. Clemens hearings office at the end of June. Case files were re-assigned to Detroit, Pontiac and Saginaw. Magistrates Logan and Kurtz were re-assigned to Detroit, and Magistrate Wolock was re-assigned to Pontiac.
- ◆ The Appellate Commission saved significant expense by taking advantage of the availability of electronic research tools and significantly reducing its hard copy library subscriptions.
- ◆ Due to declining workload, and to achieve cost savings and efficiencies, Governor Granholm issued Executive Reorganization Order 2009-53, reducing the size of the Board of Magistrates from 26 to 17, effective after 1/26/10.
- ◆ Governor Granholm appointed Murray A. Gorchow to the Appellate Commission, and designated him to serve as the chairperson of the Commission, replacing Martha M. Gasparovich. Mr. Gorchow had previously been the chairperson of the Board of Magistrates. Magistrate Christopher P. Ambrose was designated to become the new chairperson of the Board of Magistrates.

## ***What to look for in 2010***

- ◆ Development of Claims EDI to allow for the electronic submission of the Employer's Basic Report of Injury (Form WC-100) and the Notice of Dispute (Form WC-107), with a targeted implementation date by the end of 2010.
- ◆ The Workers' Compensation Efficiency Initiative, headed by former Workers' Compensation Director Ed Welch, is reviewing several of the Funds Administration provisions to determine if recommendations made previously to modify or discontinue certain funds should be implemented.
- ◆ Appointment of magistrate(s) to fill vacancies on the Workers' Compensation Board of Magistrates. Reassignment of some magistrates in order to accommodate the reduction in the number of magistrates from 26 to 17 resulting from the Governor's Executive Order 2009-53.
- ◆ "*CompCollege 10*" the annual education program for the members of the Board of Magistrates, the Appellate Commissioners and mediators.



# Organization Chart



## ***How to Contact Us***

### ***The agency is located at:***

Michigan Dept. of Energy, Labor & Economic Growth  
Workers' Compensation Agency  
7150 Harris Drive  
P.O. Box 30016  
Lansing, Michigan 48909

***Telephone (toll free):*** 888-396-5041

***Website address:*** [www.michigan.gov/wca](http://www.michigan.gov/wca)

## ***Office Locations***

<b>LOCATION</b>	<b>ADDRESS</b>	<b>Telephone #</b>
<b>Detroit</b>	Cadillac Place, Ste. 3-700 3026 West Grand Blvd P.O. Box 02989, 48226	(313) 456-3650
<b>Escanaba</b>	State Office Building 305 Ludington, 49829	(906) 786-2081
<b>Flint</b>	Bristol West Center, Ste. 110 G-1388 W. Bristol Rd., 48507	(810) 760-2618
<b>Grand Rapids</b>	2942 Fuller Street NE, 49505	(616) 447-2680
<b>Kalamazoo</b>	940 N. 10 <sup>th</sup> Street, 49009	(269) 544-4440
<b>Lansing</b>	General Office Building 7150 Harris Drive, Lansing P.O. Box 30016, 48909	(517) 636-4717
<b>Pontiac</b>	28 N. Saginaw, NBD Building 4th Floor, 48342	(248) 334-2497
<b>Saginaw</b>	State Office Building 411-K E. Genesee, 48607	(989) 758-1768

## *Administration*

The mission of the Workers' Compensation Agency is to efficiently administer the Workers' Disability Compensation Act of Michigan, which includes carrier and employer compliance, timely benefit payments and the prompt and fair adjudication of claims involving Michigan's injured workers.

### Goals:

- ◆ Ensure that employees that have suffered a work-related injury or occupational disease are provided correct wage loss replacement, medical and vocational rehabilitation services during periods of incapacity, and that these benefits are paid timely and accurately.
- ◆ Provide leadership to carry out a legislative agenda for more efficient regulation and delivery of workers' compensation benefits.
- ◆ Provide an informal and formal dispute resolution process for employers, insurance carriers, injured workers, and health care providers.
- ◆ Monitor medical care providers' compliance with the agency's Health Care Services Rules (cost containment fees) to ensure that the cost of providing health care services remains reasonable and that injured workers have access to quality health care statewide.
- ◆ Monitor the financial position of all individual and group self-insureds to ensure their ability to meet future payment of benefits on a timely basis.
- ◆ Maintain a historical insurance coverage record system for the more than 200,000 employers subject to the Workers' Disability Compensation Act.
- ◆ Monitor and enforce employers' compliance with the requirements for insurance coverage.
- ◆ Ensure carrier and employee rights to benefits or reimbursement, within Chapter 5-Funds of the Workers' Disability Compensation Act, are determined and paid in a timely and accurate manner.

The Workers' Compensation Agency has a website which contains a variety of information about the agency, the Board of Magistrates and the Workers' Compensation Appellate Commission. The address is [www.michigan.gov/wca](http://www.michigan.gov/wca).

## ***Claims Processing***

The Claims Processing Division maintains a current and historical claims/case records system. Its objective is to ensure that employees that have suffered work related injuries are provided correct wage loss replacement and that both voluntary claims and litigated cases are processed in a timely manner.

This division performs a wide variety of functions relating to workers' compensation claims. The program is broken down into six major sections:

- ◆ ***Compensation Supplement Fund.*** The Compensation Supplement Fund was established to provide a cost-of-living adjustment to workers who were injured between 9/1/65 and 12/31/79. The staff reviews and processes all applications for reimbursement, which are submitted by carriers on a quarterly basis. In 2009, the Compensation Supplement Fund reimbursed 1,881 claims, including \$539,578.71 in payments and \$3,048,925.52 in Michigan Business Tax Credits, for a total of \$3,588,504.23\*. The section is also responsible for collecting and auditing all redemption fees. In 2009, we collected \$1,511,500.00 in Redemption Fees.

**\*Approximately 517 additional claims were not included in the 2009 figures due to late filings; they will be reflected in the 2010 figures.**

- ◆ ***Contested Case.*** The Contested Case staff screens and data enters all applications for mediation or hearing, creates case files, and schedules and mails out notices for the initial magistrate pre-trial or mediation hearing. The staff also handles all mail related to litigated cases and data enters and mails orders.

In 2009, the staff processed over 20,000 applications for mediation or hearing; 32,000 pieces of correspondence, including Carrier's Response and Claim for Review forms; and 13,800 magistrate and mediator orders. In addition, the staff responded to approximately 5,000 requests for copies/subpoenas of our records.

- ◆ ***Customer Service/Vocational Rehabilitation.*** The Customer Service Section is responsible for answering general claims questions received on the agency's toll free telephone line, and assisting customers by responding to general correspondence and other inquiries. The section is responsible for efficiently handling all first level Health Care Service Rule hearings via teleconference, and boasts a 98% resolution rate. The staff also investigates allegations of violations of the Act in accordance with R408.35 (Rule 5). In addition, the staff is responsible for ensuring that customers promptly receive any forms that are requested. In 2009, the agency received approximately 25, 000 calls via the toll-free line.

This section is also responsible for ensuring that employers provide vocational rehabilitation services according to the provisions of the Act and that the injured employees accept such services. The VR staff provides information and assistance to all parties, approves and monitors rehabilitation facilities, oversees ongoing rehabilitation programs, conducts periodic training seminars, and facilitates VR advisory committee meetings. The staff also conducts first level vocational rehabilitation hearings on behalf of the director, handling 50% of the cases at the first level. In addition, the VR staff coordinates the 2nd level hearing process.

- ◆ **Data Management.** The Data Management section is responsible for reviewing, evaluating and data entering all claims forms required by the statute. The staff also manually audits all opinions, orders and voluntary pay agreements as well as certain forms that cannot be audited by the system. In addition, this section is responsible for microfilming all agency mail. In 2009, the staff data entered 139,947 claims forms.
- ◆ **File Maintenance.** The File Maintenance staff prepares all agency mail for microfilming (which includes automatic date stamping). The preparation includes opening, sorting, screening, and matching agency forms and correspondence. In 2009, the section processed 460,971 forms and correspondence relating to claim, case and insurance records. This section is also responsible for housing and maintaining workers' compensation cases that are in open payment status. In addition, the staff prepares closed files for Records Center and recalls them when necessary. In 2009, approximately 15,388 claims/cases were retired.
- ◆ **Systems Support.** The Systems Support staff is responsible for overseeing the agency's automated system, including scheduling of all mainframe jobs, creating and running all ad hoc reports, identifying and working with the programmers to fix all system problems, and designing and developing new applications. The staff spent all of 2009 working on restoring critical data that was lost on our automated system in April of 2005. All pertinent information was recovered on all known open paying claims.

## ***Mediation***

The purpose of mediation is to resolve cases between employers and employees in an informal setting. Intervention of a mediator in a claim before it becomes a formal dispute could resolve claims short of costly litigation. These individuals are available to answer questions and try to assist workers, employers, insurance carriers, and health care providers in resolving problems without the necessity of going through the formal litigation process.

Mediation conferences are held by two methods: in person or by teleconference. Conferences held by mediators include:

- ◆ *Statutory Mediation.* Section 223 of the statute provides for mediation in specific cases being disputed. They are: all applications for hearing filed by an injured employee without an attorney, all medical only disputes, all closed periods of disability being alleged and any other disputes that the agency believes would be assisted by mediation.
- ◆ *Vocational Rehabilitation Director Hearings.* Disputes concerning the proper course of vocational rehabilitation are first submitted to the agency director. The director then refers the dispute to one of his representatives to conduct a vocational rehabilitation hearing. The goal of the vocational rehabilitation hearing is to facilitate a voluntary agreement between the parties regarding the appropriate course of vocational rehabilitation for the injured worker. If the parties cannot reach an agreement, an order can be entered specifying the appropriate vocational rehabilitation plan.
- ◆ *Magistrate Referral Mediation.* These are cases on the magistrates' dockets that they believe mediation would be helpful in resolving the disputed claim. If the matter is not resolved before the mediator, then the claim goes back before the assigned magistrate for a hearing and decision.

## ***Compliance and Employer Records***

The Compliance and Employer Records Division works to ensure that all employers subject to the Michigan Workers' Disability Compensation Act have complied with the requirements by securing workers' compensation coverage either through a policy of insurance or through approved self-insured authority.

The division maintains the current and historical record system for over 235,000 employers. This includes coverage records on self-insurers, employers with insurance, and employers who have excluded themselves from the Act. In addition, this division has the responsibility to enforce employers' compliance with insurance requirements of the statute.

The major objectives of this program are:

- ◆ To keep an accurate insurance coverage record;
- ◆ To identify the responsible insurance carriers for employers listed on applications for mediation or hearing;
- ◆ To communicate with those employers who fail to maintain insurance coverage, using the civil process to enforce such compliance if the employer fails to comply even after being advised of the requirements of the statute by division staff.

Since 1983, workers' compensation insurance premiums in Michigan have been set in the marketplace. This means that different insurance companies charge different premiums. Research done by the insurance commissioner suggests that employers should "shop around" for the best deal on insurance. All workers' compensation insurance policies provide the same coverage. However, some cost more than others and some companies provide more services than others. Employers should shop for the best price and the most service from their workers' compensation insurance company.

In addition, the agency has been penalizing employers when they allow their workers' compensation coverage to lapse. To date, the agency has collected \$3.8 million in fines as a result of these lapses in coverage.

## ***Self-Insured Programs***

The Workers' Disability Compensation Act permits employers to request authority to self-insure and assume responsibility for direct payment of benefits to injured workers. The Act also permits providers of claims adjusting, underwriting and loss control services to apply and be approved by the agency to provide these services to approved self-insurers.

Two types of self-insured authority are permitted by the Act. Individual employers may be approved as self-insurers or, two or more employers in the same industry may apply for group self-insured authority. Statutory requirements, administrative rules and agency policy require annual renewal applications and various monitoring and approval tasks throughout the year.

Self-Insured Programs conducts initial regulatory reviews on employer self-insured applications and in the formation of group self-insured programs; provides guidance through the approval, formation, and review process; and issues decisions that detail the required security and exposure limiting devices based on statutory authority and the agency's established policy. Initial and annual regulatory reviews are also conducted on service company applications. The staff works to resolve all issues and disputes generated by self-insured employers by telephone, informal meetings and through the formal hearing process. The section also provides information to the public relevant to self-insured concepts and notifies self-insured employers and other interested parties of changes in the statute, administrative rules, and departmental policy.

This division also provides final approval for distributions of surplus funds not needed to pay claims or administrative expenses to members of approved group self-insured programs. This process requires the review and assessment of documents provided in support of the specific request made by the group programs. Surplus return authorizations range between \$50,000,000 and \$80,000,000 on average annually which are funds returned to the members of the various groups reducing the cost of their workers' compensation program in Michigan.



## *Health Care Services*

The Health Care Services Division performs a wide variety of functions mandated in section 418.315 of the Workers' Disability Compensation Act of 1969, as amended. These functions include; (1) Rule Development, Review and Revision, (2) Evaluation, and (3) Information and Education. A brief summary that delineates the responsibilities of each category is below:

- ◆ *Rule Development, Review and Revision.* The Act and the Workers' Compensation Health Care Services Rules identify policies for coverage and reimbursement to health care providers. Health care trends and policies are researched and developed by staff and Health Care Services (HCS) Advisory Committee members in accordance with nationally recognized standards of practice and reimbursement methodologies. Practitioner reimbursement is based upon resource based relative value units (RBRVS).
- ◆ *Evaluation.* The evaluation process consists of compiling carrier data and analyzing charges, payments, health care procedures and medical diagnosis. The results of the data analysis are used to decide reimbursement levels, utilization parameters, and level of care diagnosis. Provider and carrier compliance is also monitored through the case samples and other reports provided by carriers. A carrier's professional review process is certified by staff to assure that appropriate medical review criteria are utilized according to Rule requirements. Carriers must also attest that professional review staff are licensed and certified as required by Workers' Compensation Health Care Services Rules.
- ◆ *Information and Education.* Staff responds to numerous telephone and written inquiries for information and clarification of the rules, assists in resolving differences between a carrier and a provider, meets with provider, carrier and employee organizations, professional review companies, attorneys, mediators, magistrates and legislators. Staff also provides educational seminars for providers, carriers and professional review agencies regarding the application of the rules, billing procedures, carrier and provider responsibilities and rights outlined in the rules. Staff also participates on panels and programs on workers' compensation health care.

## ***Funds Administration***

The Funds Administration Division, consisting of the Second Injury Fund; Silicosis, Dust Disease and Logging Industry Compensation Fund; and the Self-Insurers' Security Fund is managed by a board of three trustees. Two trustees are appointed by the Governor with the advice and consent of the Senate. One represents employers authorized to act as self-insurers in Michigan and the second represents the insurance industry. The third trustee is the director of the Workers' Compensation Agency.

Responsibilities of the Funds Administration are defined within the Workers' Disability Compensation Act. The applicable sections of the Act are 351, 356(1), 361(3), 372, and 862. The applicable chapters of the Act are 5 and 9.

The Funds Administration is funded 100% by insurers who write workers' compensation policies in the State of Michigan, and employers who self-insure their workers' compensation risk. These assessments cover all benefits paid by the Funds Administration, and all administrative costs.

The Funds Administration handled approximately 3,417 cases during 2009. At the close of the calendar year, the Funds Administration had 2,698 open files. The total expenditures for the Funds Administration during 2009 were \$22,787,337. Benefit payments were \$18,085,173, and administrative costs including the costs of litigation equaled \$4,702,164. Complete fiscal and calendar year accounting may be obtained from the Funds Administration office. Detailed information regarding the Funds Administration Division can be found in the Funds Administration Overview located on the Workers' Compensation Agency's web site at [www.michigan.gov/wca](http://www.michigan.gov/wca).

The Medical Benefit Reimbursement Provision [MCL 418.862(2)] is also administered by the Funds Administration. The funds for this provision, however, come through the State of Michigan General Fund.

## ***Board of Magistrates***

Section 213 of Public Act 103 of 1985 authorizes the Workers' Compensation Board of Magistrates. By statute, the Board of Magistrates originally consisted of 30 members that are appointed by the Governor and confirmed by the Senate, and responsible for hearing and deciding contested cases filed after March 31, 1986. Executive Order 2003-18 reduced the number of magistrates to 26 in December 2003, and was amended in October 2009 reducing the number to 17. Each magistrate must be a licensed attorney in Michigan, and either pass an exam or have five years of experience in workers' compensation. A magistrate cannot be reappointed after serving a total of 12 years.

Magistrates decide claims at the formal hearing level of the contested claims process of the workers' compensation system. All resolutions require a formal written order or opinion with findings of fact and conclusions of law. Parties to a decision may stipulate to modify or correct a decision within 30 days. Additionally, the board is responsible for hearing any dispute meeting the requirements for the Small Claims Division established under Section 841 of Public Act 103 of 1985. The magistrates must also approve the settlement of Workers' Compensation claims by conducting Redemption hearings.

In 2009 Magistrate Murray Gorchow served as the Chairperson of the Board of Magistrates until October 1, 2009 when Christopher Ambrose succeeded him. Also serving as magistrates during 2009 were Christopher Ambrose, John Baril, Jennifer Barnes, Kenneth Birch, Lee Decker, Gary Goolsby, Carol Guyton, Michael Harris, Valencia Jarvis, James Kent, Lisa Klaeren, David Kurtz Jr., Jan Leventer, Beatrice Logan, Michael Mason, Timothy McAree, Victor McCoy, David Merwin, Thomas Moher, Melody Paige, Paul Purcell, G. Jay Quist, Joy Turner, and Rosemary Wolock.

## ***Appellate Commission***

The Workers' Compensation Appellate Commission is an independent body of five attorneys, appointed by the Governor with advice and consent of the Senate, to serve 4-year terms (12 years term limit). The Worker's Disability Compensation Act, MCL 418.101 *et seq.*, provides general policies for administration; gives the chairperson work assignment authority; grants rule-making authority to the Commission; sets forth the scope of appellate review; and provides procedures for employers, employees, insurance carriers, and attorneys seeking review of a hearing officer's decision. The primary legal foundation for the Commission is found in §274 and §861 of the Act, as modified by Executive Reorganization Order No. 2003-1 (E.O. 2003-18).

In January of 2009, Martha M. Gasparovich served as chairperson until she left the Commission to become a Social Security Administrative Law Judge. She was succeeded as chairperson by Murray A. Gorchow, who left his position as chairperson of the Board of Magistrates on October 1, upon his appointment to the Commission. Also serving as Commissioners in 2009 were Donna J. Grit, Gregory A. Przybylo, Granter S. Ries and Rodger G. Will.

By providing expeditious, impartial administrative review of contested claims for workers' compensation benefits, the Commission serves to minimize any undue financial suffering of employees, as well as reduce the costs to Michigan's employers. Created as an independent body, the Commission has the power and authority to review the decisions of the Board of Magistrates and the Director of the Workers' Compensation Agency regarding benefits for work-related disabilities and related issues. The Commission also acts as an administrative buffer to minimize the number of appeals to the state Court of Appeals.

When decisions issued by the Workers' Compensation Agency and Board of Magistrates are appealed, the Commission's caseload is created. The Commission sits in randomly selected panels of three Commissioners, although occasionally all members will participate in the decision of a case if the matter may establish a precedent. By law, commissioners are required to perform both a qualitative and quantitative analysis of the record of a case in order to ensure a full, thorough and fair review. The Commission must issue and publish scholarly and concise opinions that reflect relevant statutory and case law. To accomplish this, the Commission strives to promptly review cases and write dispute-resolving opinions that comply with the requirements set forth in § 418.861(a) of the Act. Decisions on legal points provide guidance to the agency, magistrates, attorneys, employees, employers and insurance carriers regarding benefit entitlement and hearing procedures. Commission opinions continue to be published online at: <http://www.michigan.gov/wca>.

For administrative efficiency, the Commission utilizes administrative support staff to assist the commissioners. The staff docket transcripts and briefs, types and formats routine orders and draft and final opinions, as well as processing routine correspondence. Staff support helps ensure excellence in the Commission's final published product, and in the providing of top-quality customer service. The Commission's support staff includes one executive secretary, four legal secretaries and one word processor.

The appeal process is governed in part by the Administrative Appellate Rules, which the Commission has the authority to promulgate and amend. No new rules or amendments were filed in 2009.

The average time span between when a case is ready or "perfected" for review and when it is actually decided is approximately four months. The Commission continues to accept electronic filings, such as, regular correspondence and motions requesting an extension of time to file briefs, transcripts, and other motions. A link on the Workers' Compensation Agency website, <http://www.michigan.gov/wca>, directs users to the DELEG site where valuable WCAC information can be accessed. New policies and procedures are posted at this site, as well as "Recent Opinions of Interest," published opinions and appellate rules, and "Procedural Reminders."

The Commission continues to encourage Oral Arguments, although only one such argument was held in 2009.

During 2009, the Commission received 235 new claims. Including reconsiderations and remands from higher courts the total incoming caseload was 239 for the year. The Commission published 214 opinions (140 dispositive and 74 non-dispositive). There were 51 dissenting and 24 concurring opinions written. In addition, 110 other dispositive actions were processed, consisting of 52 redemptions, 14 withdrawals, 1 dismissal by letter, and 44 orders. There were also 281 non-dispositive orders issued, for a total production of 680 dispositions.

The caseload is tracked to document the number of currently pending "perfected appeals" cases (*i.e.*, all required transcripts and briefs have been filed). At the beginning of 2009 there were a total of 89 perfected appeals ready for review. At the 2009 year-end, the number of perfected appeals ready for review decreased to 65, reflecting the continuing decrease in the number of new claims filed with the Commission. This decline is related to the continuing decade long decrease in the number of cases filed before, and decided by, the Board of Magistrates.

Significant changes in our application of the Workers' Disability Compensation Act have occurred as a result of the Michigan Supreme Court's re-interpretation of what constitutes a disability. A major portion of cases pending before the Commission have been, or will continue to be, remanded to the Board of Magistrates for purposes of preserving due process in this changing legal environment. These remanded cases will return to the Commission for decision following the issuance of the magistrate's supplemental opinion on remand.

## ***Qualifications Advisory Committee (QAC)***

The Qualifications Advisory Committee (QAC) consists of 10 individuals appointed by the governor to oversee the appointment process for the Workers' Compensation Board of Magistrates and Appellate Commission. The committee's duties include recommending candidates to the governor for the board and commission, evaluating the performance of individuals appointed to those positions, and reviewing caseloads and making recommendations to the governor concerning reductions or increases in the number of magistrates and appellate commissioners. The QAC members are appointed for four-year terms and serve at the pleasure of the governor.

The QAC met twice during 2009 and interviewed 11 applicants for the Board of Magistrates and 7 applicants for the Appellate Commission. They also reviewed and evaluated the work performance of 8 magistrates and 2 appellate commissioners.

# *Statistics & Charts*

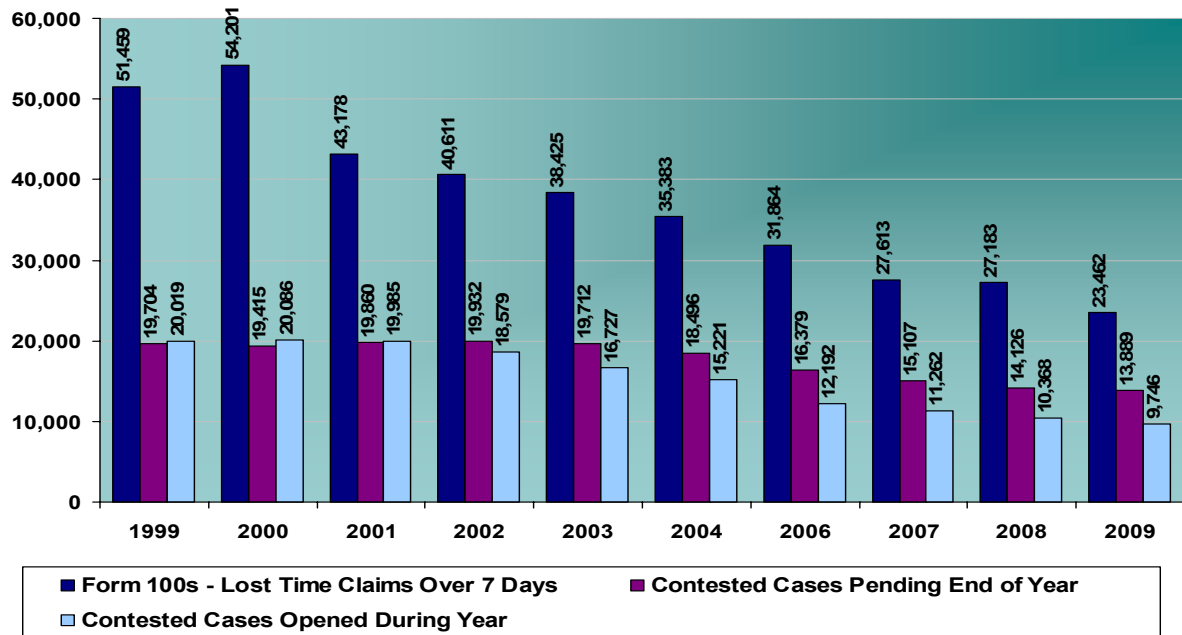
## State Average Weekly Wage Chart

Year	SAWW	90% of SAWW (Maximum)	2/3 of SAWW*	50% of SAWW (Minimum Benefit for Death Cases)	25% of SAWW (Minimum Benefit for Specific Loss and T&P)
2010	\$828.73	\$746.00	\$552.49	\$414.37	\$207.18
2009	\$834.79	\$752.00	\$556.53	\$417.40	\$208.70
2008	\$820.04	\$739.00	\$546.69	\$410.02	\$205.01
2007	\$803.17	\$723.00	\$535.45	\$401.59	\$200.79
2006	\$784.31	\$706.00	\$522.87	\$392.16	\$196.08
2005	\$765.12	\$689.00	\$510.08	\$382.56	\$191.28
2004	\$744.49	\$671.00	\$496.33	\$372.25	\$186.12
2003	\$724.96	\$653.00	\$483.31	\$362.48	\$181.24
2002	\$715.11	\$644.00	\$476.74	\$357.56	\$178.78
2001	\$714.46	\$644.00	\$476.31	\$357.23	\$178.62
2000	\$678.23	\$611.00	\$452.15	\$339.12	\$169.56
1999	\$644.06	\$580.00	\$429.37	\$322.03	\$161.02
1998	\$614.10	\$553.00	\$409.40	\$307.05	\$153.53
1997	\$591.18	\$533.00	\$394.12	\$295.59	\$147.80
1996	\$581.39	\$524.00	\$387.59	\$290.70	\$145.35
1995	\$554.22	\$499.00	\$369.48	\$277.11	\$138.56
1994	\$527.29	\$475.00	\$351.53	\$263.65	\$131.82
1993	\$506.80	\$457.00	\$337.87	\$253.40	\$126.70
1992	\$489.01	\$441.00	\$326.01	\$244.51	\$122.25
1991	\$477.40	\$430.00	\$318.27	\$238.70	\$119.35
1990	\$474.22	\$427.00	\$316.15	\$237.11	\$118.56
1989	\$454.15	\$409.00	\$302.77	\$227.08	\$113.54
1988	\$440.77	\$397.00	\$293.85	\$220.39	\$110.19
1987	\$433.91	\$391.00	\$289.27	\$216.96	\$108.48
1986	\$414.70	\$374.00	\$276.47	\$207.35	\$103.68
1985	\$397.48	\$358.00	\$264.99	\$198.74	\$99.37
1984	\$370.65	\$334.00	\$247.10	\$185.33	\$92.66
1983	\$358.89	\$324.00	\$239.26	\$179.45	\$89.72
1982	\$340.45	\$307.00	\$226.97	\$170.23	\$85.11

\*Discounted fringe benefits may not be used to raise the weekly benefits above this amount. Attorney Fees may not be based on a benefit rate higher than this amount.

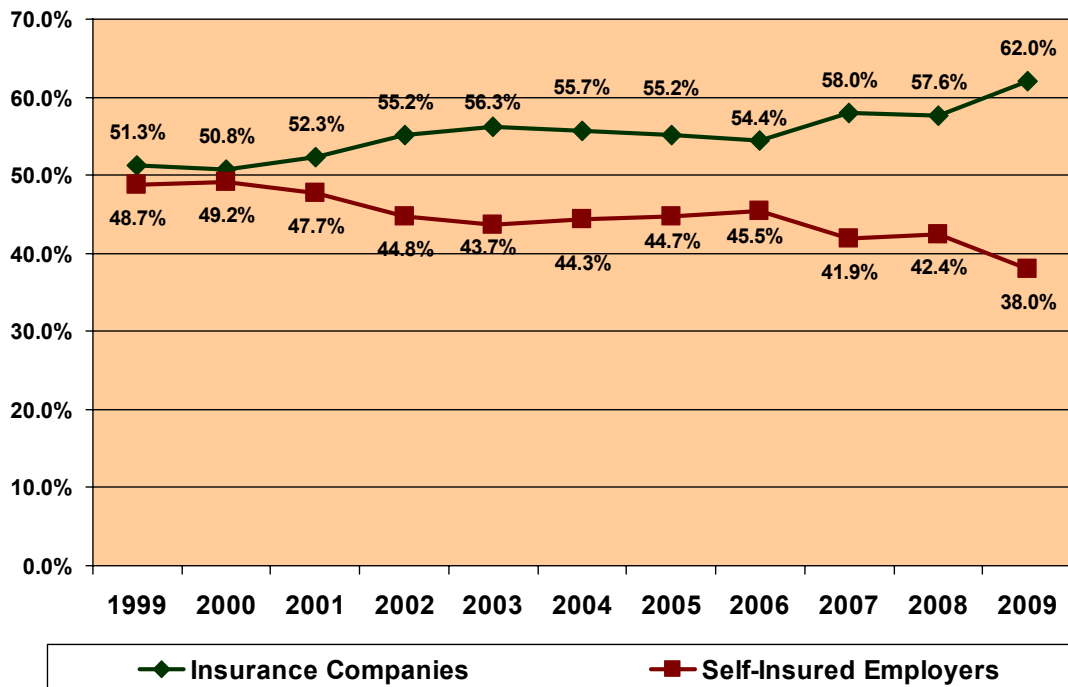


# Claim/Case Trends

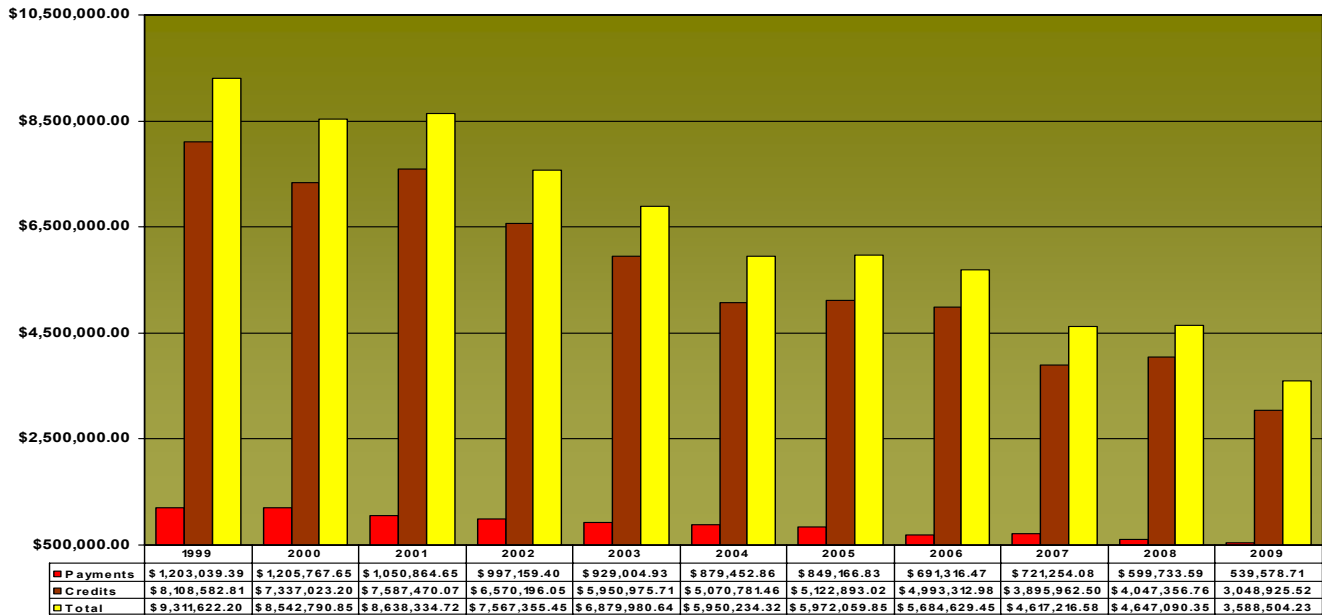


NOTE: 2005 figures not available due to system "crash."

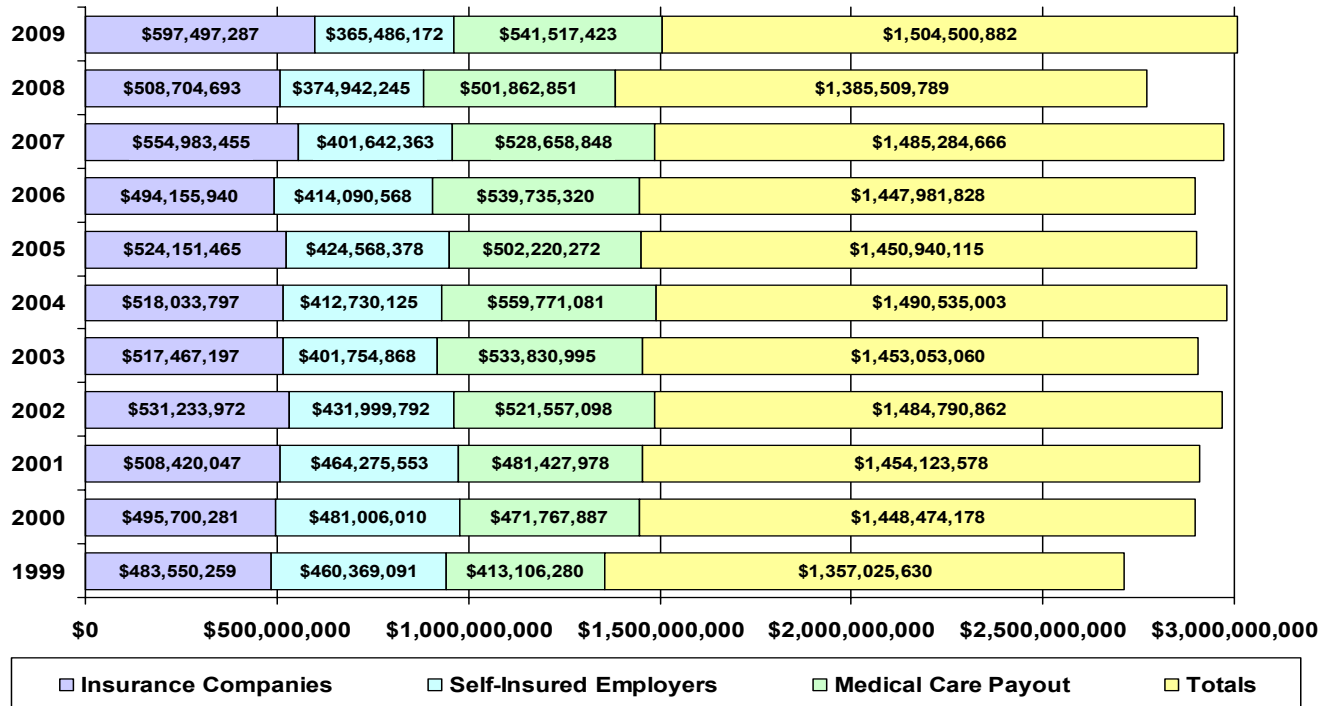
# Indemnity Payments



## Compensation Supplement Fund Reimbursements



## Payout in Workers' Compensation Benefits and Medical Care



## Magistrate Case Disposition Chart

	1999	2000	2001	2002	2003	2004	2005*	2006	2007	2008	2009
Redemptions	13,152	12,928	12,332	11,528	10,803	11,425	9,486	8,845	8,889	8,123	7,347
Opinions	916	812	817	860	769	792	702	473	453	335	310
Other Dispositions	5,863	5,689	5,868	5,839	5,707	6,103	4,405	4,297	3,866	3,308	2,817
Total Dispositions	19,931	19,429	19,017	18,227	17,279	18,320	14,593	13,615	13,208	11,766	10,474

\*2005 statistics are based on a manual count corresponding to the order mailed date and may be subject to revision. The numbers should not be compared to our system-generated reports from previous and/or future years because those are based on file received dates rather than mailed dates.

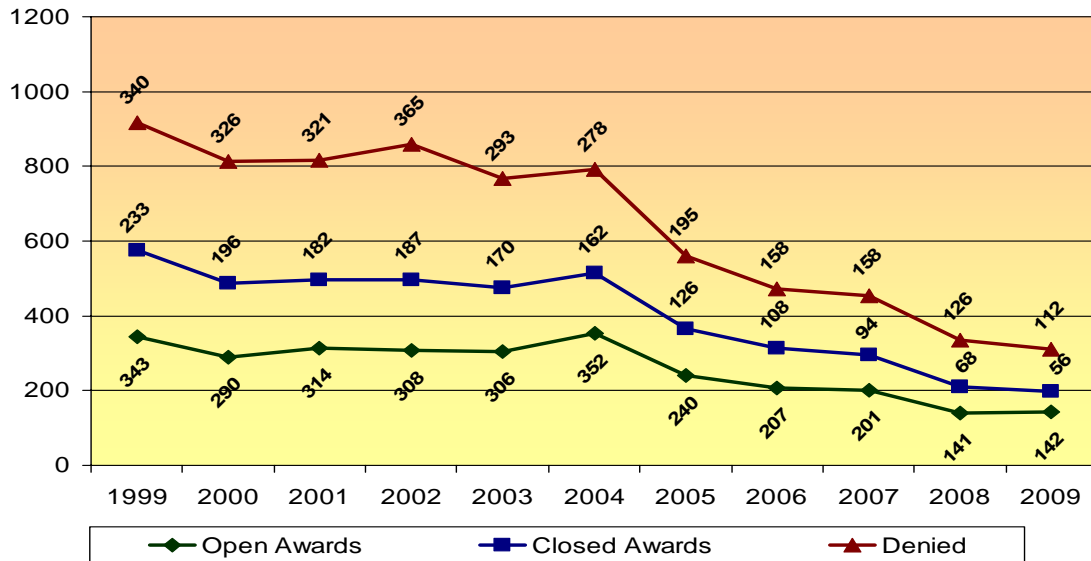
## Magistrate Aged Case Distribution Chart

	1999	2000	2001	2002	2003	2004*	2006	2007	2008	2009
0 - 12 Months	11,831	12,698	12,999	13,533	12,742	11,452	9,295	8,755	7,991	7,735
13 - 18 Months	2,406	2,466	2,745	3,190	3,370	3,151	2,786	2,604	2,455	2,210
19 - 24 Months	947	761	823	997	1,462	1,272	1,513	1,273	1,250	1,351
Over 24 Months	408	285	160	222	418	701	1,338	1,253	1,284	1,385
Total Docket Load	15,592	16,210	16,727	17,942	17,992	16,576	14,932	13,885	12,980	12,681

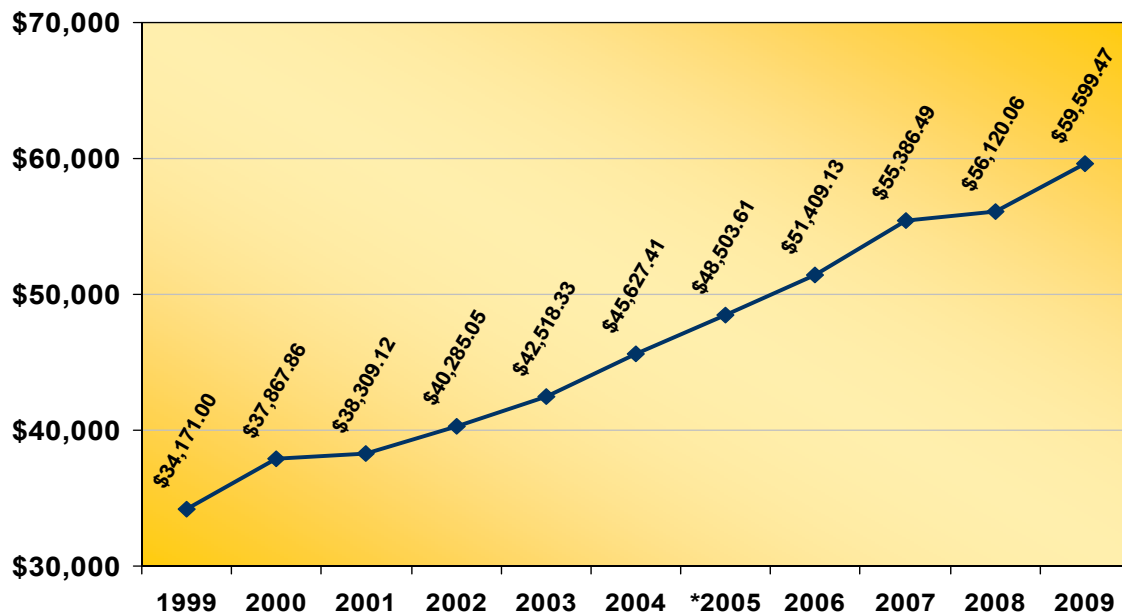
NOTE: 2005 figures not available due to system "crash."

\*Figures revised from previous year's reports because they did not include the cases awaiting external resolution (e.g. Medicare, Friend of the Court, pension, etc.)

## Workers' Compensation Trends



## Average Redemption Amounts

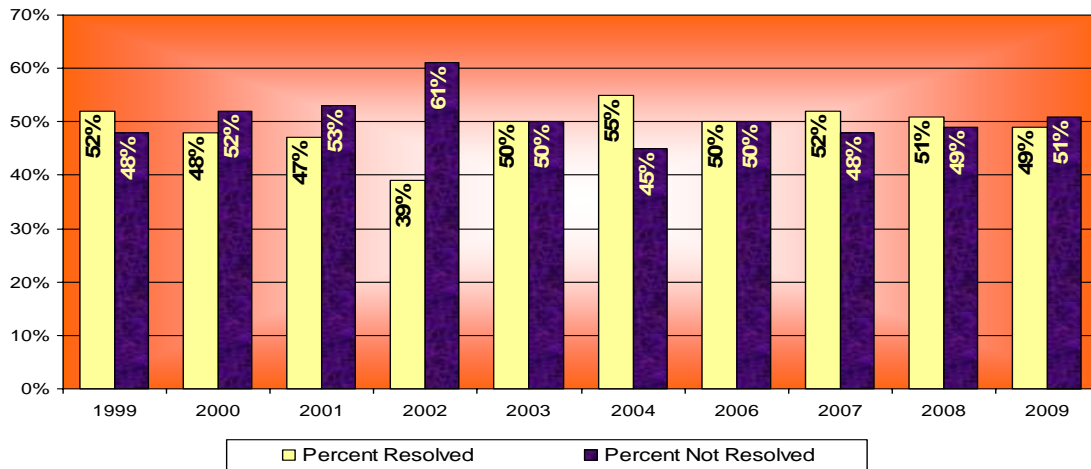


\* 2005 statistics are based on a manual count corresponding to the order mailed date and may be subject to revision. The numbers should not be compared to our system-generated reports from previous and/or future years because those are based on file received dates rather than mailed dates.

# Statutory Mediation Dispositions

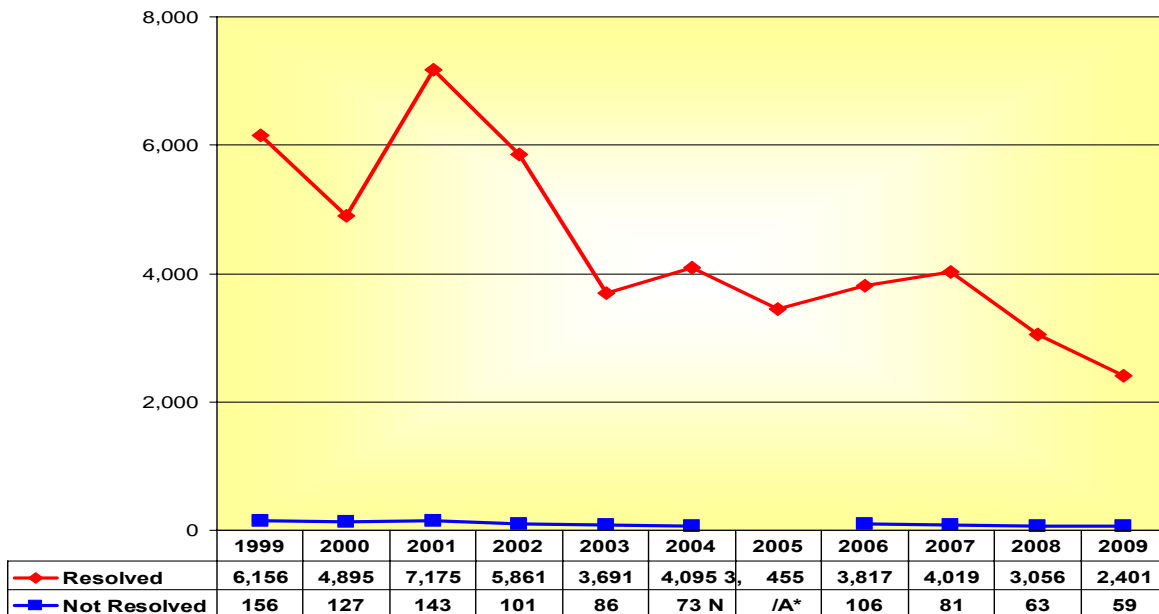
(Not including VR & Health Care Rule Hearings)

	1999	2000	2001	2002	2003	2004	2006	2007	2008	2009
Resolved	4,402	3,926	3,255	2,631	1,628	1,579	1,498	1,453	1,433	1,259
Not Resolved	4,030	4,228	3,689	4,143	1,635	1,294	1,478	1,325	1,372	1,297



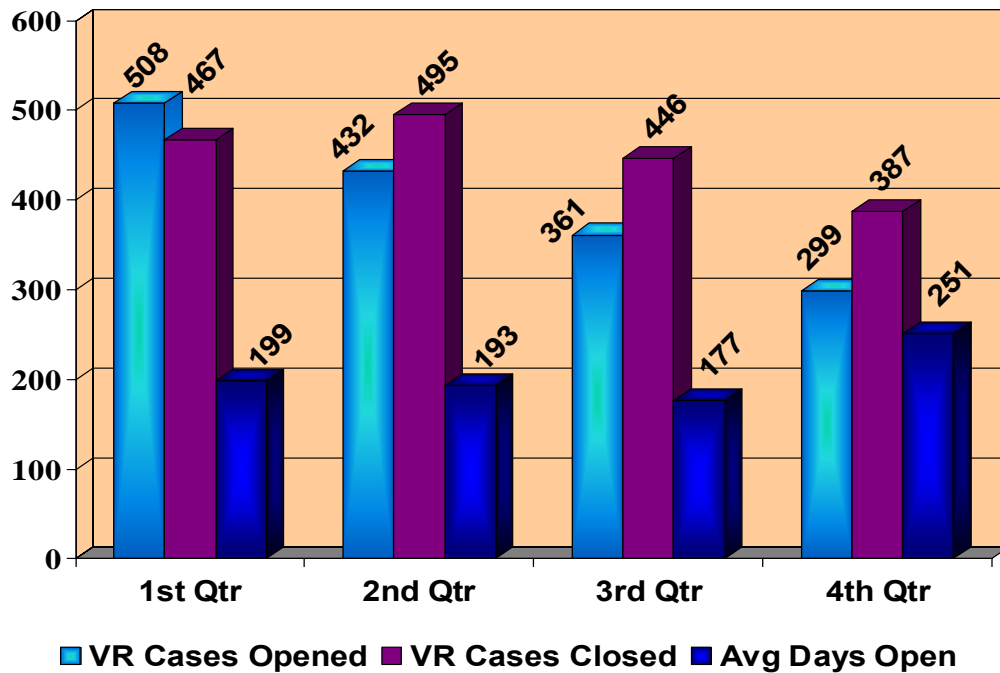
NOTE: 2005 figures not available due to system "crash."

# Health Care Rule Dispositions

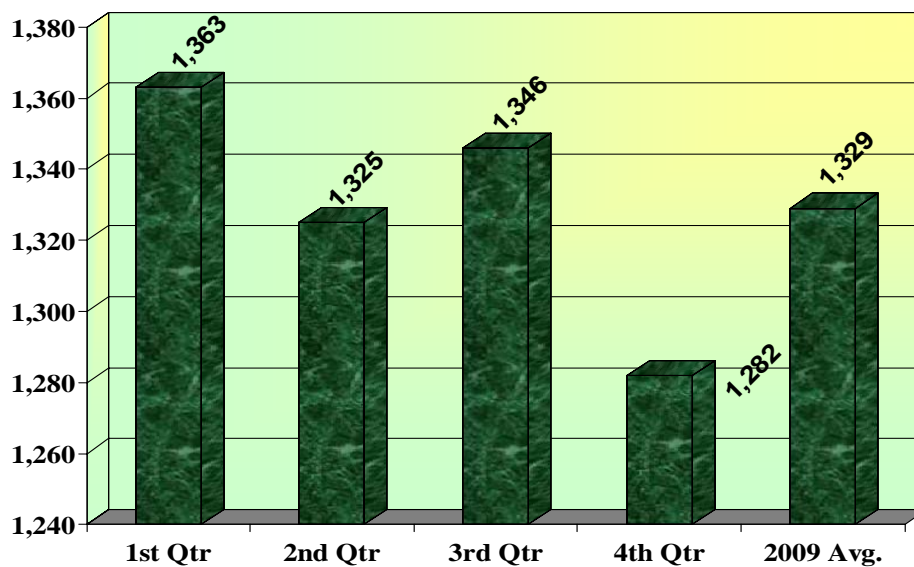


\* Figure not available due to system "crash."

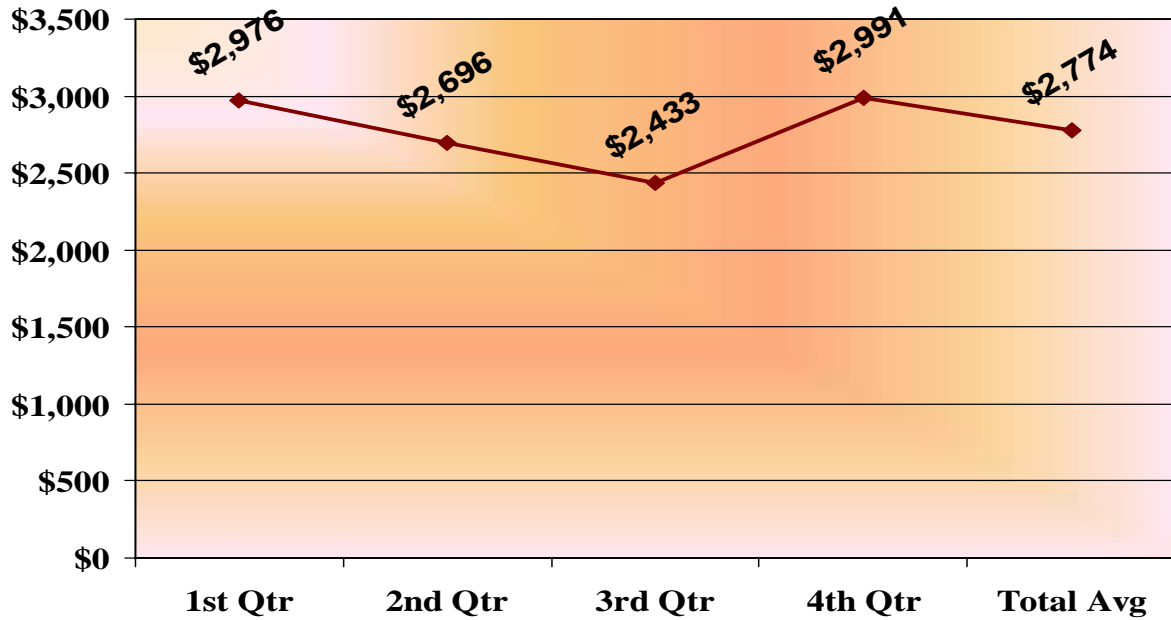
## 2009 VR Case Activity



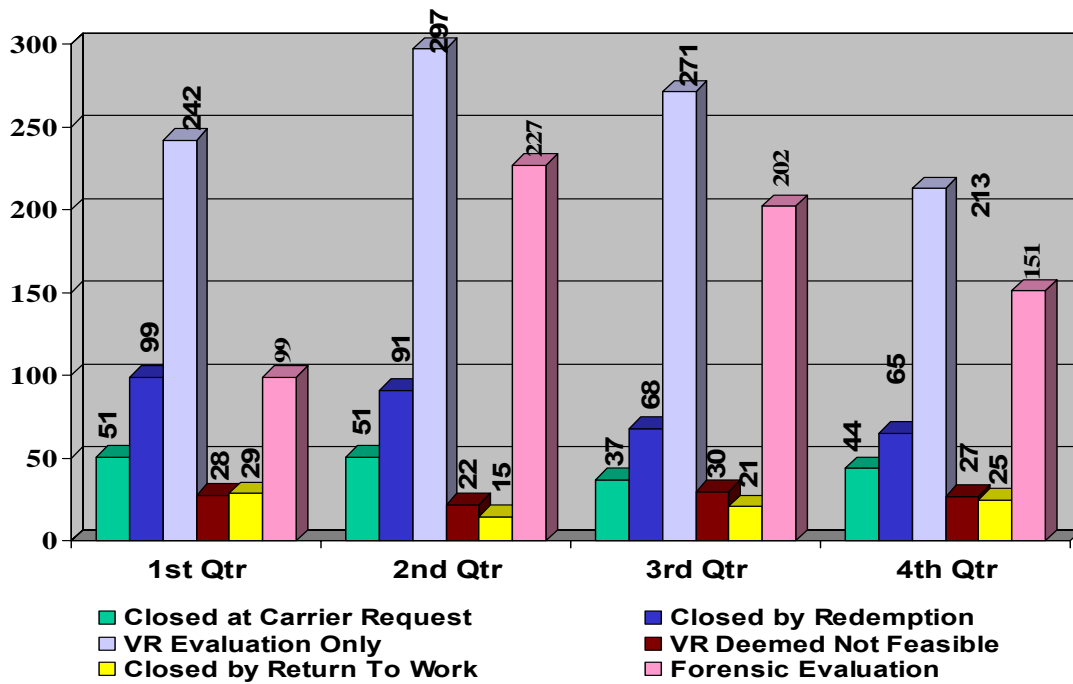
## Avg Number of Days from Injury to Referral for VR Services 2009



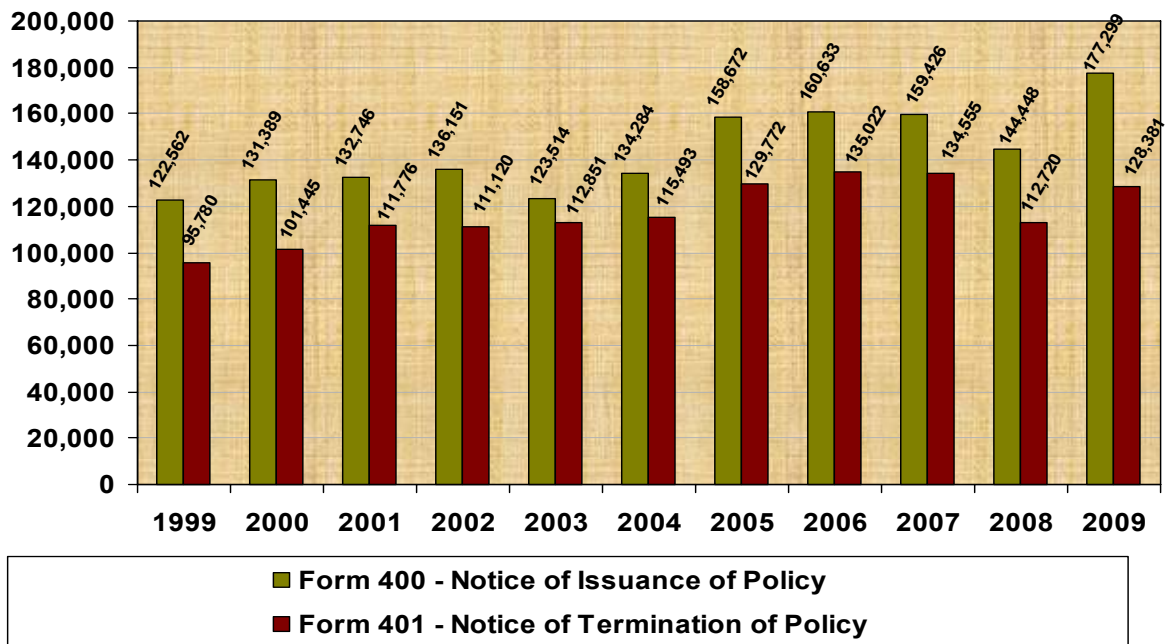
## 2009 Average Cost Per VR Case



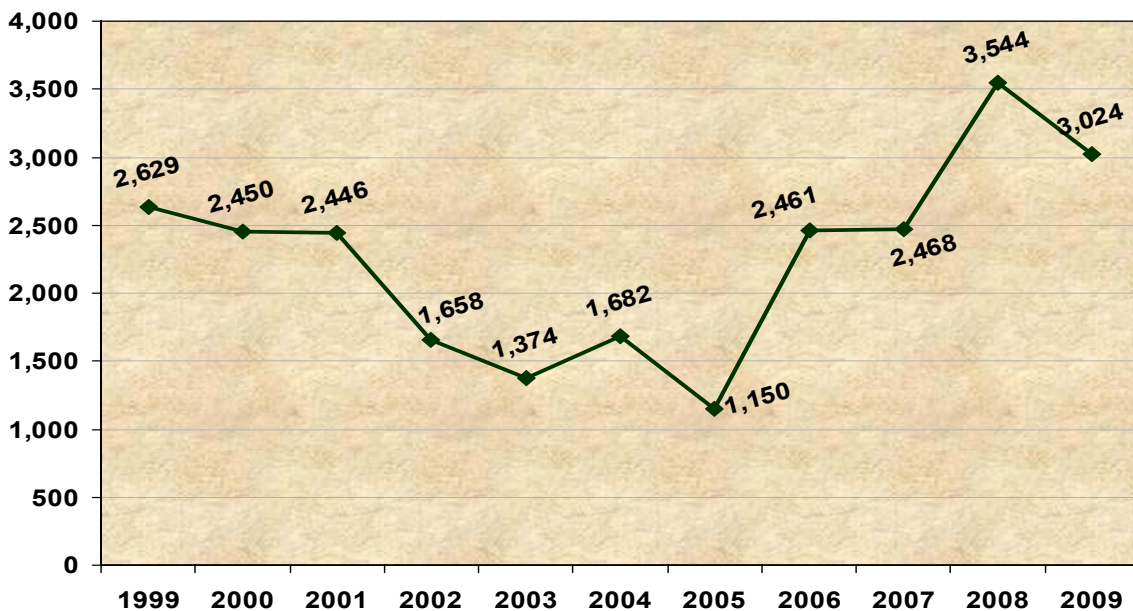
## 2009 Vocational Case Closures



## Forms 400 & 401 Received

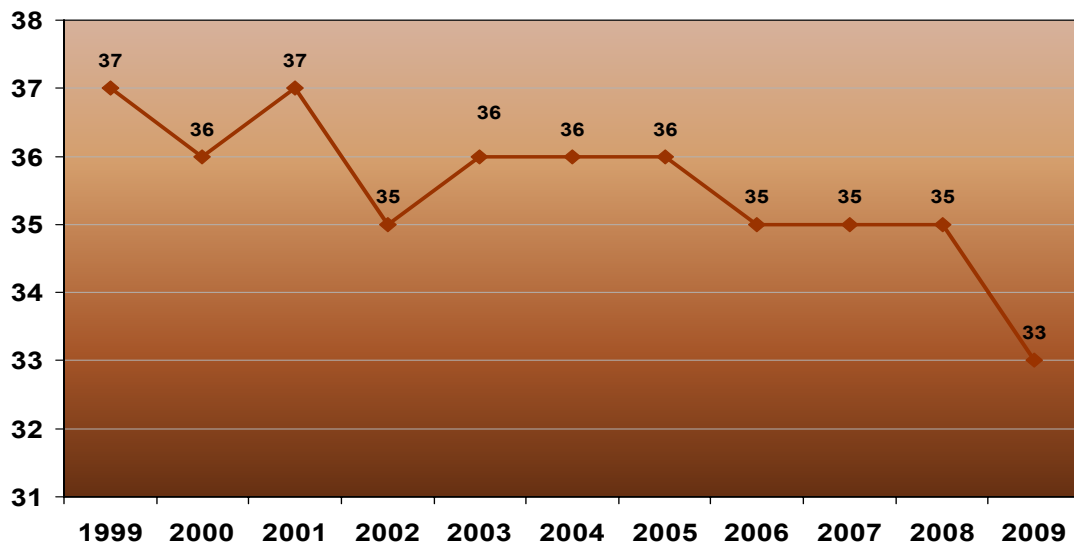


## Exclusion Forms Processed

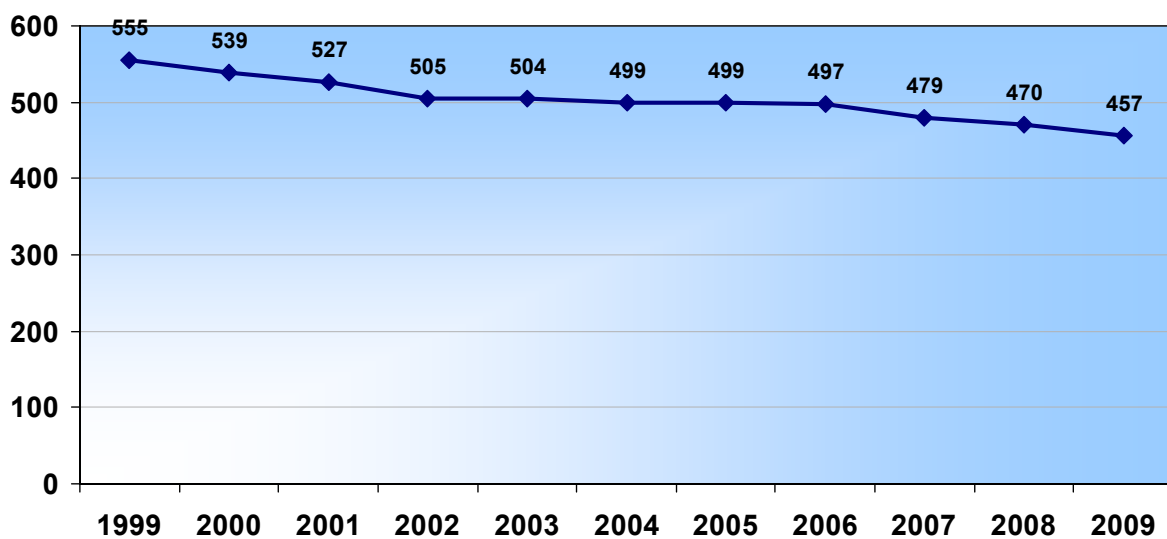




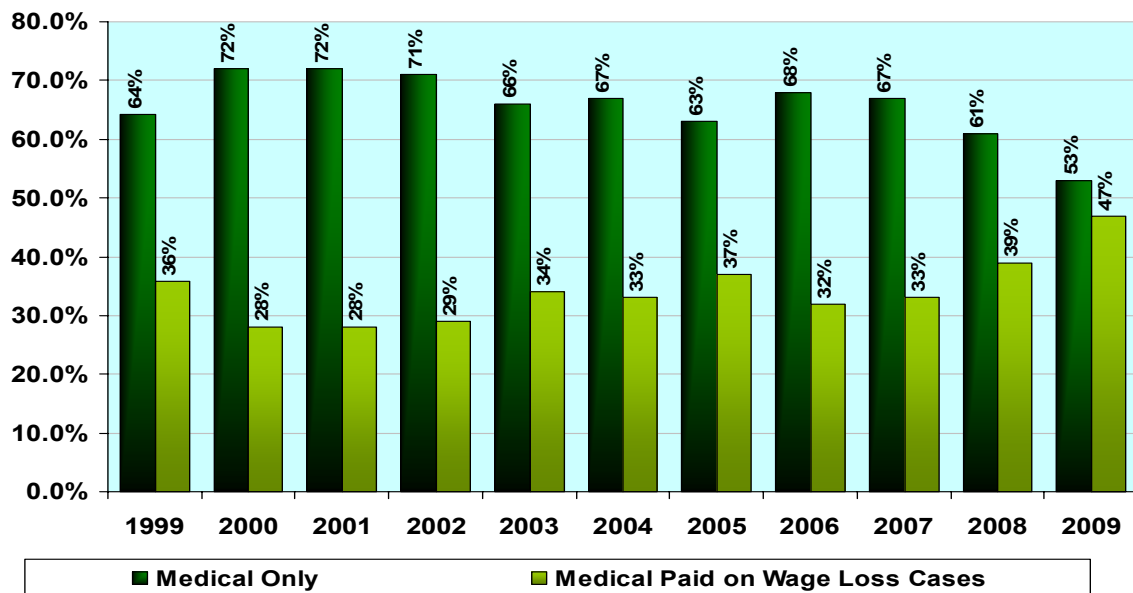
## Number of Approved Self-Insured Groups



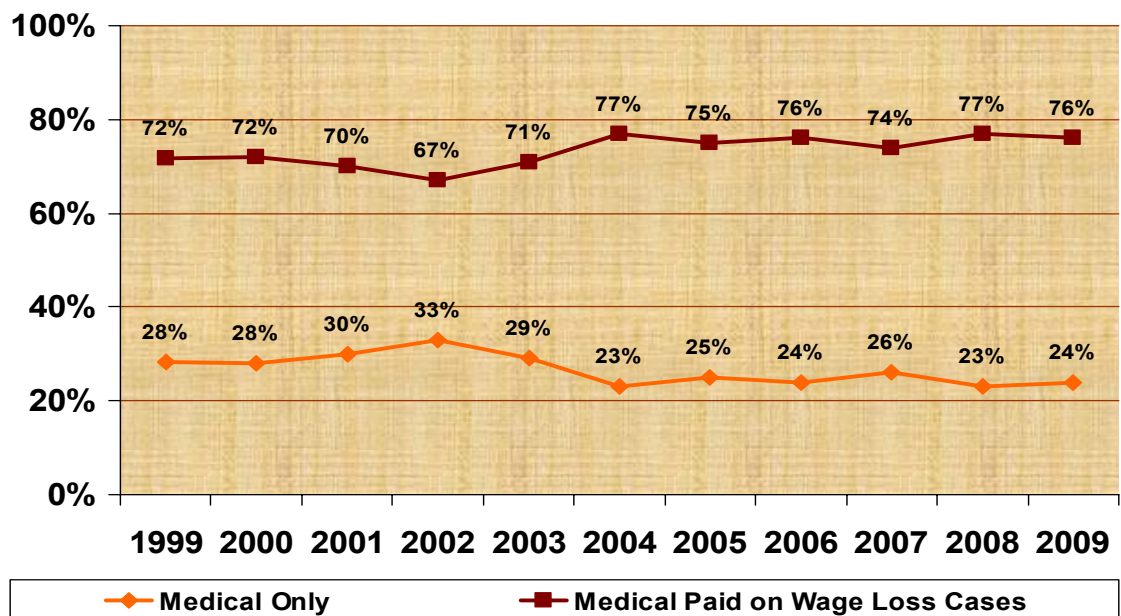
## Number of Approved Individual Self-Insured Employers



## Workers' Comp Cases - By Case Type



## Health Care Costs - Percent Paid by Case Type



## Workers' Compensation Annual Health Care Costs 2004-2009

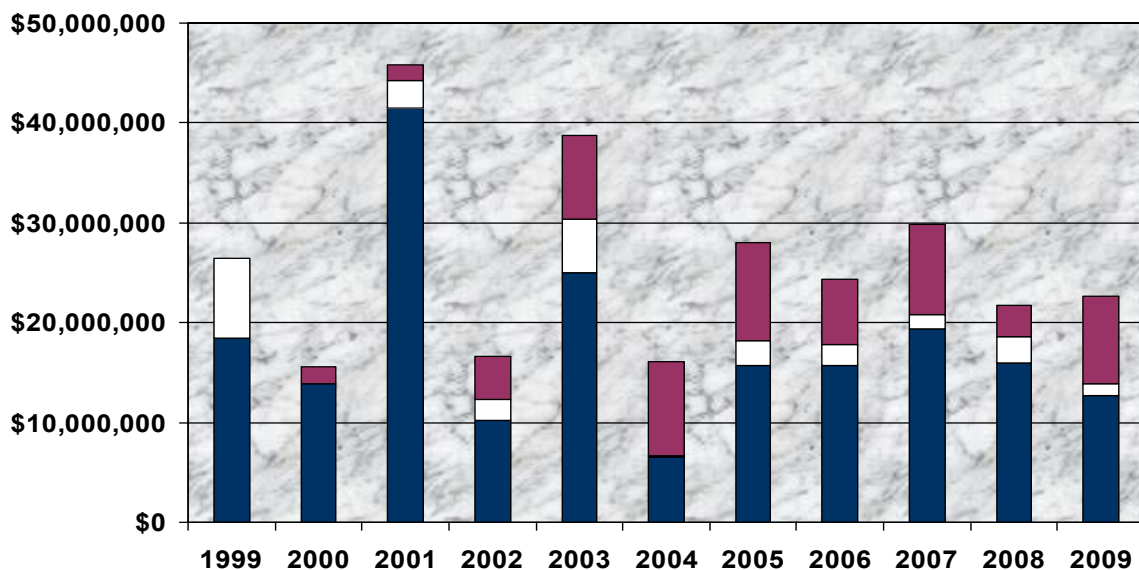
	JAN-DEC 2004	JAN-DEC 2005	JAN-DEC 2006	JAN-DEC 2007	JAN-DEC 2008	JAN-DEC 2009
<b>MEDICAL ONLY</b>						
Number of Cases	230,198	229,711	202,826	184,652	190,704	155,629
Amount Paid	\$129,441,688	\$124,461,364	\$132,170,897	\$136,657,539	\$116,932,799	\$123,918,088
Cost/Case	\$562	\$542	\$652	\$740	\$613	\$796
% of Total Cases	67%	63%	68%	67%	61%	53%
% of Total Cost	23%	25%	24%	26%	23%	24%
<b>MEDICAL PAID ON WAGE LOSS CASES</b>						
Number of Cases	113,913	135,748	94,403	90,205	121,664	140,527
Amount Paid	\$430,329,393	\$377,758,909	\$407,564,424	\$392,001,309	\$384,930,052	\$403,112,527
Cost/Case	\$3,778	\$2,783	\$4,317	\$4,346	\$3,164	\$2,869
% of Total Cases	33%	37%	32%	33%	39%	47%
% of Total Cost	77%	75%	76%	74%	77%	76%
<b>TOTAL</b>						
Number of Cases	344,111	365,459	297,229	274,857	312,368	296,156
Amount Paid	\$559,771,081	\$502,220,272	\$539,735,320	\$528,658,848	\$501,862,851	\$527,030,615
Cost/Case	\$1,627	\$1,374	\$1,816	\$1,923	\$1,607	\$1,780

FIGURES REPRESENT PAYMENTS MADE IN ANY GIVEN ANNUAL REPORT PERIOD

\*The 2009 figures may reflect a change in the process for collection of statistical data. These figures were collected online from carriers listed on WORCS, the Agency's database system, as of 3/31/10.

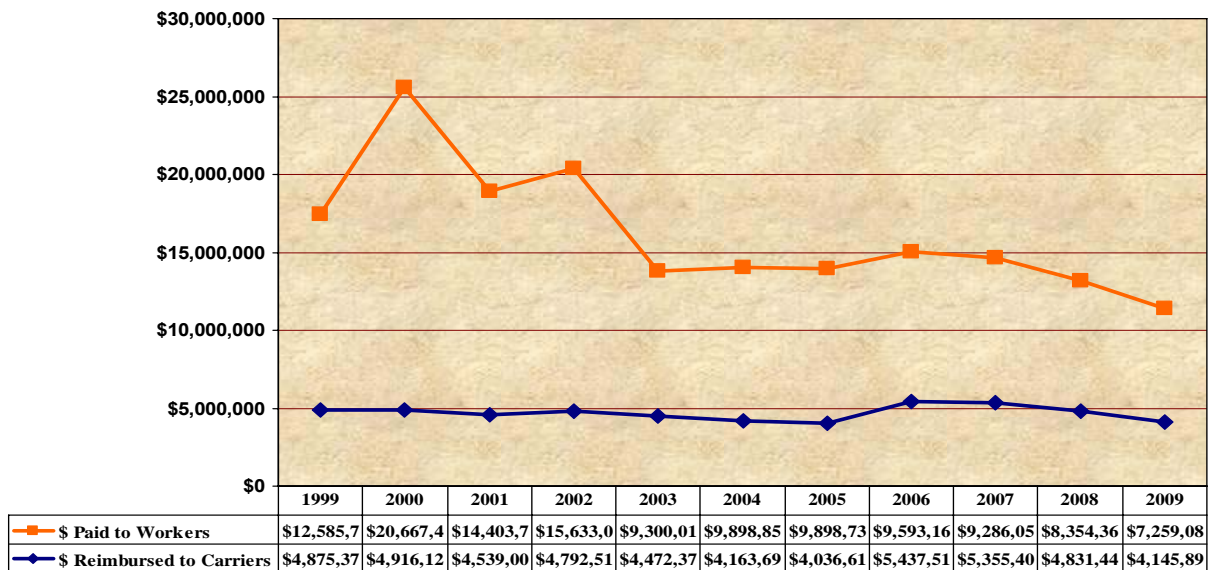
2009 numbers represent 93% of carriers reporting.

## Funds Administration Assessments

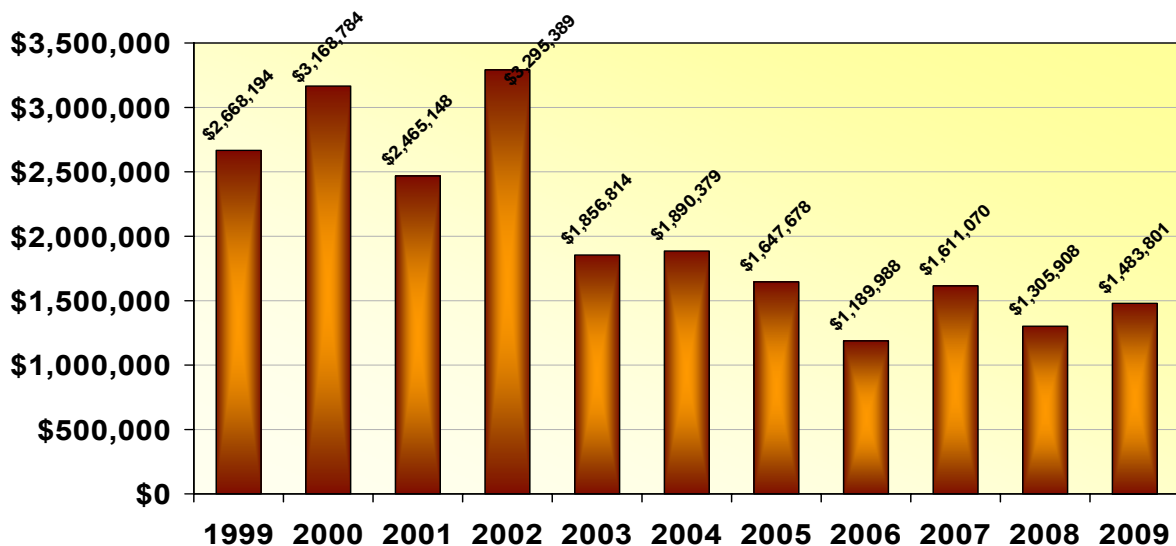


■ Second Injury Fund □ Silicosis, Dust Disease & Logging Industry Fund ■ Self-Insurers' Security Fund

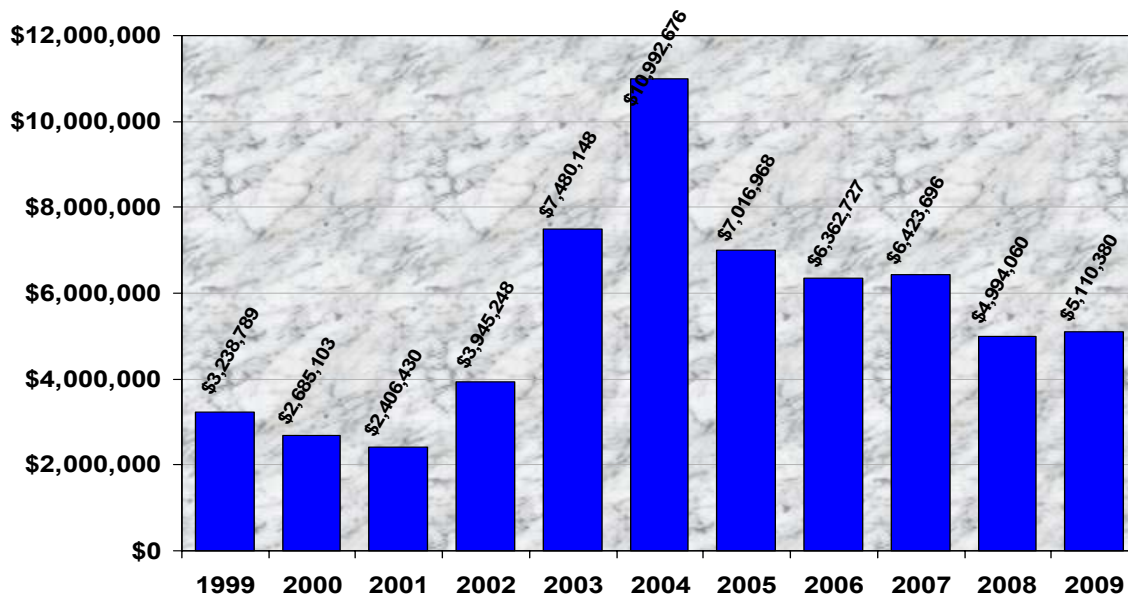
## Benefits Paid Out by Second Injury Fund



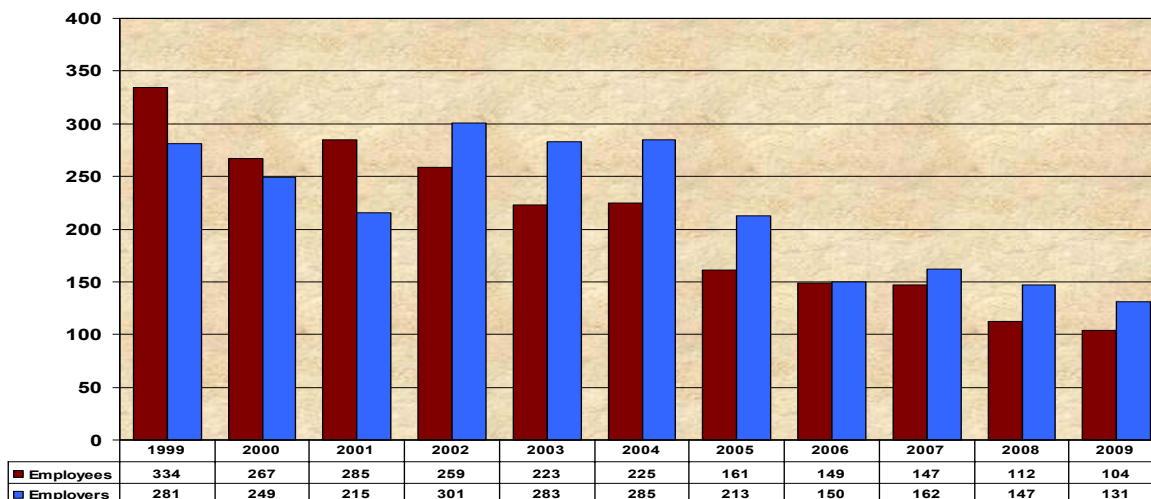
## Benefits Reimbursed to Carriers and Redemptions by the Silicosis, Dust Disease and Logging Industry Compensation Fund



## Benefits Paid to Workers by the Self-Insurers' Security Fund



## Worker's Compensation Appellate Commission New Claims Filed by Employees/Employers

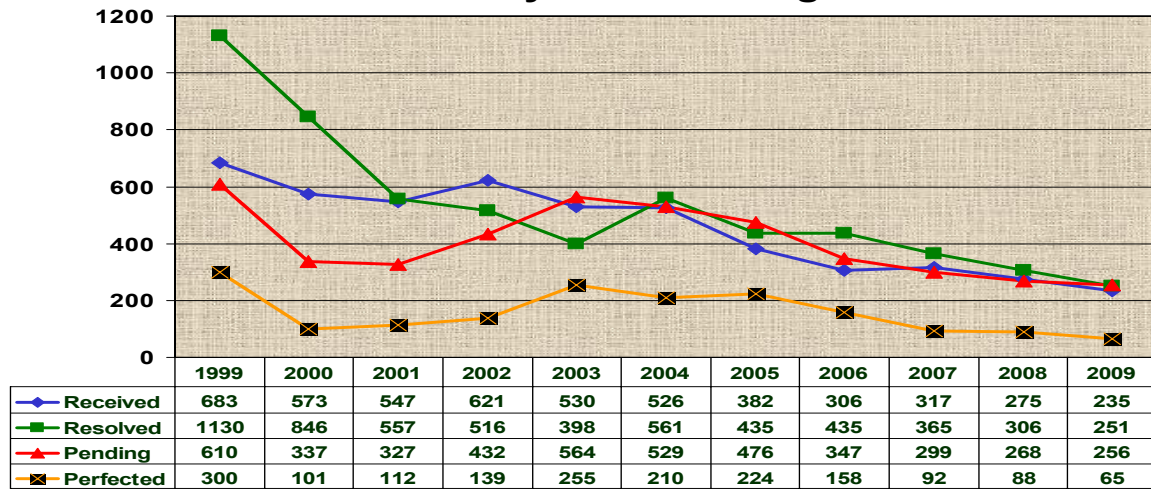


### New Claims Filed by Employees/Employers

The number of claims filed by employees and employers is represented in this illustration. The total number of claims received in 2009 versus 2008 has decreased by 24. The number of employee claims received decreased by 8, and the number of employer claims received decreased by 16.

In the 11 year span depicted above, employee claims peaked in 1999 with 334 claims being filed, with an overall low in 2009 of 104 claims, for a decrease of 69%. Receipt of employer claims peaked in 2002 with 301 claims being filed, with an overall low in 2009 of 131, for a decrease of 56%.

## Workers' Compensation Appellate Commission Claim Activity: 1999 through 2009



**Received:** Includes all new claims filed with the Commission as well as reinstatements and remands from the Michigan Court of Appeals and the Michigan Supreme Court.

**Resolved:** Includes all dispositive opinions, orders, redemptions and withdrawals.

**Pending:** This figure includes all pending appeals before the Commission at the end of December 2009, including active appeals (claims received prior to 2009 and new claims received in 2009), higher court reinstatements, remanded cases where the Commission retained jurisdiction.

**Perfected:** All cases ready for review pending before the Commission (all required transcripts and briefs have been filed) awaiting disposition.

## **INFORMATION/PUBLICATIONS AVAILABLE ON OUR WEBSITE**

### **Most Frequently Requested**

- Calculation Program
- Michigan Workers' Compensation Forms (Most Forms)
- Weekly Benefit Rate Books (2005 – 2010)
- Workers' Disability Compensation Act & Administrative Rules  
(Printed copies available from Institute of Continuing Legal Education at [www.icle.org](http://www.icle.org))

### **General Information/Publications**

- Annual Reports (1997 – 2009)
- Coverage Questions for Subcontractors, General Contractors, and Independent Contractors (Booklet)
- Funds Administration Overview
- Overview of Workers' Compensation in Michigan (Booklet)
- Summary of Your Rights and Responsibilities Under Workers' Disability Compensation (Pamphlet)
- Vocational Rehabilitation for Injured Workers (Pamphlet)

### **Associated Workers' Compensation Listings**

- Approved Vocational Rehabilitation Facilities
- Individual Self-Insured Employer List
- Self-Insured Group List
- Service Company List

### **Litigation Information**

- Board of Magistrates Opinions
- Workers' Compensation Appellate Commission Opinions

Website address: [www.michigan.gov/wca](http://www.michigan.gov/wca)  
Request forms at: 888-396-5041